

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

STATE OF NORTH DAKOTA
EX REL. WAYNE STENEHJEM,
ATTORNEY GENERAL,

Petitioner,

-vs-

SIMPLE.NET, INC.
F/K/A DIAL UP SERVICES, INC.
DBA SIMPLE.NET,

Respondent.

Civil No. 1:08-cv-002

**STATE OF NORTH DAKOTA'S NOTICE
OF MOTION AND MOTION FOR
FED.R.CIV.P. 11 AND 28 U.S.C. § 1927
SANCTIONS**

CPAT 050029.003

Defendant State of North Dakota ("North Dakota") hereby moves pursuant to Fed. R. Civ. P. 11 and 28 U.S.C. § 1927 for sanctions against Simple.net, Inc. ("Respondent") and its counsel, Peter Strojnik ("Strojnik"), on the following grounds:

1. The request for removal of the pending state case to federal district court is frivolous and has been made for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, specifically, to improperly interfere with, to delay and to obstruct the North Dakota Attorney General's law-enforcement investigation of Respondent's activities in North Dakota, to delay and obstruct the contempt hearing ordered by the State court, to intimidate other States and prevent them from conducting their own investigations and further, in an attempt to improperly influence or force a multistate negotiated settlement of other States' claims against Respondent. Fed.R.Civ.P. 11(b)(1).

2. The improperly interposed Verified Complaint has been presented for an improper purpose, specifically, to improperly interfere, delay and obstruct the North Dakota Attorney General's law-enforcement investigation of Respondent's activities in North Dakota, to intimidate other States and prevent them from conducting their own investigations and further, in an attempt to improperly influence or force a multistate negotiated settlement of other States' claims against Respondent. Fed. R. Civ. P. 11(b)(1).

3. Respondent's requests, claims and contentions are not warranted by existing law or by a nonfrivolous argument for the extension of the law. Fed. R. Civ. P. 11(b)(2).

4. Respondent's requests, claims, allegations and other factual contentions lack evidentiary support and are not likely to have evidentiary support. Fed. R. Civ. P. 11(b)(3).

5. Respondent's counsel failed to cure the impermissible removal of the case to the United States District Court and failed to cure the defects in the Verified Complaint, despite being put on explicit notice that Respondent's removal was frivolous and jurisdictionally insupportable and despite repeatedly being put on explicit notice that Respondent's claims, as asserted in the Verified Complaint, were frivolous and insupportable.

6. Respondent's counsel intentionally and knowingly multiplied the proceedings in this case, unreasonably and vexatiously, and should be required by the Court to personally satisfy the excess costs, expenses and attorney's fees reasonably incurred because of such conduct. 28 U.S.C. § 1927.

North Dakota respectfully requests this Court award it all costs, including attorney's fees, incurred in responding to and defending against the removal to federal court and the attempted filing of the Verified Complaint, including fees for the Motion for Remand, this Motion for Sanctions, and any acts and pleadings necessary to defend against the Verified Complaint. North Dakota requests that sanctions be awarded against Respondent's counsel, Peter Strojnik, and, where appropriate, Respondent.

This motion is supported by State of North Dakota's Brief In Support of Motion for Fed. R. Civ. P. 11 and 28 U.S.C. § 1927 Sanctions filed herewith. North Dakota respectfully requests oral argument on this motion.

DATED this 22nd day of January, 2008.

STATE OF NORTH DAKOTA
Wayne Stenehjem
Attorney General

By: /s/ Elin S. Alm
Elin S. Alm (ND ID # 05924)
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CERTIFICATION OF SERVICE

Pursuant to 28 U.S.C. § 1746, the undersigned certifies that on February 19, 2008, I electronically filed State of North Dakota's Notice of Motion and Motion for Fed.R.Civ.P. 11 and 28 U.S.C. § 1927 Sanctions and State of North Dakota's Brief in Support of Motion for Fed.R.Civ.P. 11 and 28 U.S.C. § 1927 Sanctions in the matter of State of North Dakota ex rel. Wayne Stenehjem, Attorney General v. Simple.net, Inc. f/k/a Dial Up Services, Inc. dba Simple.net, Civil No. 1:08-CV-002, with the Clerk of Court using the CM/ECF system, which sent notification of such filing electronically to the following:

Peter Strojnik: strojnik@aol.com Attorney for Simple.net, Inc.
Parrell D. Grossman pgrossman@nd.gov

/s/ Elin S. Alm
Elin S. Alm